IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

FRIDAY, THE 16TH NOVEMBER 2007 / 25TH KARTHIKA 1929

WP(C).No. 33880 of 2007(G)

EP.463/2006 of MUNSIFF COURT, HOSDRUG
.....

PETITIONER:

M.Usha Kumari, D/o. K.V.Santha, Residing at Kodiyankundu,
West Eleri Village, Hosdurg Taluk, Kasaragod District.

BY ADV. SRI.T.K.VIPINDAS

RESPONDENT:

The Secretary, Nileshwar Block Co-op. Housing Society,
P.O. Nileshwar.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 16/11/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

M.N. KRISHNAN, J.

= = = = = = = = = = = = = = = =

W.P.C. NO. 33880 OF 2007

= = = = = = = = = = = = = = = =

Dated this the 16th day of November, 2007.

J U D G M E N T

This writ petition is filed to quash Ext.P1 and to grant time to the petitioner to pay the amount in instalments. It is submitted before me that in execution of the decree in ARC 62/05, the Munsiff Court has ordered auction of the property and it is posted on 19.11.07. It is submitted before me by the learned counsel for the writ petitioner that the matter was referred to the Adalath and the Adalath was apprehensive of the fact whether the instalment facility can be given by them and therefore referred the matter back to the Munsiff Court. It is submitted by him that the decree holder has no objection in granting instalment facility. The question of granting facility to pay the amount in instalment is covered by the provisions of Order 20 Rule 11(2) CPC. The main aspect therein is that such a facility can be granted only if it is consented to by the decree holder. Since it is

submitted that the decree holder is prepared to consent for such a facility, in order to facilitate the party to work out the remedy before the Court, I direct the Court below to defer the sale by one month and permitting the writ petitioner to move an application for instalment facility which can be considered by the Court below in accordance with law and pass appropriate orders.

The writ petition is disposed of accordingly.

M.N. KRISHNAN, JUDGE.

ul/-